

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JOSEPH CUEVAS

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU - 8758

Decision No. CU - 6059

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, was presented by JOSEPH CUEVAS for \$48,424.37 based on a one-half interest in buildings, personalty and a bank account. The claim was filed on August 7, 1970, claimant having returned from Cuba on June 29, 1970. It is considered timely filed in view of the class action taken by the Commission in June, 1967, on behalf of United States citizens in Cuba. Claimant has been a national of the United States since his naturalization in 1918.

Pursuant to the community property law of Cuba, spouses have equal interests in property acquired during coverture, except that inherited or acquired by gift. Claimant's spouse is a Cuban national and no claim has been filed by or on her behalf.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant described the losses as follows:

- (1) Apartment building at 4906 Calle 118, Marianao, Havana
- (2) Residence at 918 Calle 62, Marianao, Havana
- (3) 2-family house at 24812 Avenue 3A, Barlovento, Bauta, Havana
- (4) Personal property including a 1956 Mercury automobile
- (5) Bank account, Book No. 34159

Claimant has submitted his affidavit of November 26, 1969, executed in Havana, as well as "Escrituras" which have been returned to him.

On the basis of the record, the Commission finds that claimant owned a one-half interest in the properties above described.

The Commission further finds that the real properties were subject to the Cuban Law on Urban Reform published on October 14, 1960; and that the personal property and bank account were subject to Law 989 published on December 6, 1961, which effectively confiscated property of those who left Cuba.

Thus the Commission finds that claimant's interests in the real properties were taken on June 30, 1970, pursuant to the Urban Reform Law, and his interests in the personal property and bank account were taken on that date, pursuant to Law 989.

Although the claim for loss arose subsequent to the close of the period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period. (See Claim of Vivian Morales, Claim No. CU-8739.)

The Act provides in Section 503 (a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value or cost of replacement.

REAL PROPERTY

Claimant asserted his loss on these properties as follows:

Total value of Items 1,2,3	\$115,000.00
Received from Urban Reform	<u>37,039.96</u>
	\$ 77,960.04 - due

one half : \$ 38,980.02

(1) Apartment building at 4906 Calle 118, Marianao:

This building is described as of three floors, the first being for stores. The second and third contained 2-bedroom apartments, with usual facilities. It was built by claimant in 1969.

The Commission finds that the declared value of \$45,000 for this property is fair and reasonable. According to the claimant \$27,059.68 had been received from Urban Reform against the property, and \$17,940.32 remained to be paid. The record further discloses that Urban Reform authorities required him to return \$3,029.76 which had been paid him against this property. Accordingly, the Commission finds that the total loss in connection with this property was \$20,970.08 and claimant's interest therein was \$10,485.04.

Claimant further states, and the record discloses, that Urban Reform authorities also required claimant to turn over to them \$451.13 representing security deposits made by tenants in this property. The Commission finds, however, that this money belonged to the tenants and claimant did not suffer a loss in this connection. Accordingly, this part of the claim is denied.

(2) Residence at 918 Calle 62, Marianao:

This property, residence of claimant, is described as of two floors, having about eight rooms, including office, as well as garage. It was built in 1955-56. The Commission finds that the declared value of \$25,000 for this property is fair and reasonable and concludes that claimant suffered a loss at \$12,500 in this connection.

(3) 2-family house at 24812 Avenue 3A, Barlovento, Bauta:

This property is described as of two floors, having the equivalent of about 15 rooms, including garage, balcony, and usual facilities. The record includes several photographs thereof. The Commission finds that the declared value of \$45,000 for this property, built in 1959, is fair and reasonable. According to the claimant \$9,980.28 had been received from Urban Reform against the property, and \$35,019.72 remained to be paid. Accordingly, the Commission finds that the loss in connection with this property was \$35,019.72 and claimant's interest therein was \$17,509.86.

PERSONAL PROPERTY

Claimant has submitted a list of the property left in his apartment, valuing it at \$6,875. In addition he asserts claim for \$2,800 for a 1956 Mercury automobile. The Commission has considered the description of these properties, and after application of appropriate depreciation finds that it had a value of \$4,748.80 on the date of loss, including an allowance for the automobile. Accordingly, the Commission concludes that claimant suffered a loss of \$2,374.40 in this connection.

BANK ACCOUNT

Claimant has submitted copy of a receipt from the Banco Nacional of Cuba for \$9,213.71 deposited on November 12, 1969, in the name of his spouse, Laura Gil Coya. Claimant offers the explanation that the deposit represented an accumulation of income from rents and personal property sold. He further states he does not have the bank book

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because upon leaving Cuba, the authorities require persons to give up the bank books they may have and return all monies withdrawn from the same since 1965.

The Commission finds that claimant suffered a loss of \$4,606.85 in connection with this deposit.

Recapitulation

Claimant's losses on June 30, 1970, are summarized as follows:

Item (1)	4906 Calle 118	\$10,485.04
Item (2)	918 Calle 62	12,500.00
Item (3)	24812 Ave 3A	17,509.86
Item (4)	Personalty	2,374.40
Item (5)	Bank account	4,606.85
		<u>\$47,476.15</u>

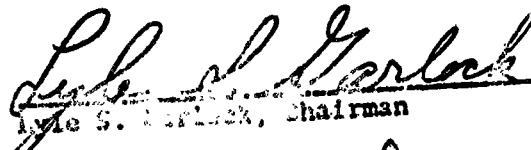
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

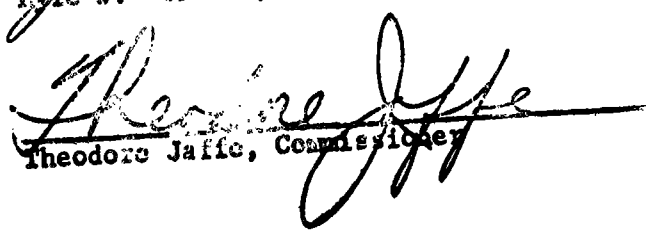
CERTIFICATION OF LOSS

The Commission certifies that JOSEPH CUEVAS suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Forty-Seven Thousand Four Hundred Seventy-Six Dollars and Fifteen Cents (\$47,476.15) with interest at 6% per annum from June 30, 1970 to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

FEB 11 1971


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended (1970).)